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10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF WASHINGTON
12

13 AMANDA BANTA, SHARP
14 SHOOTING INDOOR RANGE &
15 GUN SHOP, INC., THE RANGE, LLC,
16 AERO PRECISION, LLC, and
17 NATIONAL SHOOTING SPORTS
18 FOUNDATION, INC.,

19 Plaintiffs,

20 v.

21 ROBERT W. FERGUSON,
22 ATTORNEY GENERAL OF THE
23 STATE OF WASHINGTON; and
24 JOHN R. BATISTE, CHIEF OF THE
25 WASHINGTON STATE PATROL,

Defendants.

No. 2:23-cv-00112-MKD

JOINT MOTION TO EXCEED
PAGE LIMITS AND EXTEND
DEADLINES FOR MOTION FOR
PRELIMINARY INJUNCTION
AND RELATED BRIEFING

06/01/2023

Without Oral Argument

Plaintiffs Amanda Banta, Sharp Shooting Indoor Range & Gun Shop, Inc.,
The Range, LLC, Aero Precision, LLC, and the National Shooting Sports
Foundation, Inc. (collectively, "Plaintiffs") challenge Washington's newly enacted
assault weapons ban, HB 1240, under the Second Amendment. Plaintiffs and
Defendants Attorney General Robert Ferguson and Washington State Patrol Chief

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1 John R. Batiste (collectively, “Parties”) bring this joint motion regarding Plaintiffs’
2 planned motion for a preliminary injunction.

3 Plaintiffs intend to file a Motion for Preliminary Injunction in this matter and
4 Defendants intend to oppose it. The Parties anticipate needing more than the 10
5 pages allowed under LCR 7(f)(2)–(3) to adequately address the legal standard for
6 seeking a preliminary injunction. The Parties jointly request, pursuant to LCR
7 7(f)(5), that the Court expand the page limits for Plaintiff’s Motion for Preliminary
8 Injunction, Defendant’s Response, and Plaintiff’s Reply, for the reasons and in the
9 manner set forth below.

10 Plaintiffs’ Motion (and subsequent briefing) will involve a preliminary
11 examination of the merits of Plaintiffs’ claims. The U.S. Supreme Court recently
12 established a new test for evaluating state firearm regulations under the Second
13 Amendment. *N.Y. State Rifle & Pistol Ass’n, Inc. v. Bruen*, 142 S.Ct. 2111, 2127
14 (2022). The Supreme Court rejected the two-part test adopted by a majority of the
15 circuit courts of appeals (including the Ninth Circuit). *Id.* at 2126. Instead, under
16 the test enunciated in *Bruen*, the first question is whether “the Second Amendment’s
17 plain text covers an individual’s conduct” as relevant to the regulation. *Id.* If the
18 Second Amendment covers the prohibited conduct, the regulation may be upheld
19 only if it is “consistent with this Nation’s historical tradition of firearm regulation.”
20 *Id.*

21 To evaluate whether the New York State regulation at issue in *Bruen* met the
22 second part of this test, the Supreme Court surveyed hundreds of years of history
23 from 1285 (*id.* at 2139) to the present. Given the expansiveness and complexity of
24 the analysis contemplated by *Bruen*, and the lack of controlling precedent applying
25 it, the 10 pages allowed by LCR 7(f) is not adequate to brief Plaintiffs’ likelihood of

1 success on the merits along with the remaining preliminary injunction factors.
2 Defendants will likewise need adequate space to adequately address these issues and
3 respond to Plaintiffs' arguments.

4 Accordingly, the Parties have conferred and jointly submit that good cause
5 exists to modify the page limits as indicated below, and respectfully ask the Court
6 to grant the following page limits:

- 7 • Plaintiffs' Motion for Preliminary Injunction: 25 pages
- 8 • Defendants' Response: 25 pages
- 9 • Plaintiffs' Reply: 13 pages

10 Pursuant to LCR 7(c)(2)(B) and LCR 7(d)(2)(B), a response shall normally be
11 filed within 14 days after the filing of a nondispositive motion, and a reply shall
12 normally be filed within 7 days after the filing of the response. The Parties have
13 conferred and jointly request that the Court extend the time for the Parties to file
14 response and reply briefs, as detailed below:

- 15 • Defendants' Response to be due 28 days after the filing of Plaintiffs'
16 Motion for Preliminary Injunction;
- 17 • Plaintiffs' Reply to be due 14 days after the filing of Defendants'
18 Response;
- 19 • The date of the hearing for Plaintiffs' Motion should be at least 49 days
20 after the motion's filing.

21 For the foregoing reasons, the Parties respectfully request that the Court grant
22 their joint motion.
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1 DATED this 2nd day of May, 2023.

2 CORR CRONIN LLP

3
4 s/ Steven W. Fogg

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CERTIFICATE OF SERVICE

I hereby certify that on (Date), I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System, which in turn automatically generated a Notice of Electronic Filing (NEF) to all parties in the case who are registered users of the CM/ECF system. The NEF for the foregoing specifically identifies recipients of electronic notice.

DATED at Seattle, Washington on 2nd day of May, 2023.

s/ Megan Johnston

Megan Johnston, Legal Assistant

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